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19 *Department of Justice*

11
12 IN THE UNITED STATES DISTRICT COURT
13 FOR THE SOUTHERN DISTRICT OF CALIFORNIA
14

15 **LUCKY BOBS INTERNET CAFE, LLC,**

16 Plaintiff,

17 v.

18 **CALIFORNIA DEPARTMENT OF**
19 **JUSTICE, and DOES 1-25, inclusive,**

20 Defendants.

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22 **STOCKTON ENTERPRISES, LLC, and**
23 **STOCKTON DÉJÀ VU BOUTIQUE, LLC,**

24 **Plaintiffs,**

25 v.

26 **CALIFORNIA DEPARTMENT OF**
27 **JUSTICE, and DOES 1-25, inclusive,**

28 **Defendants.**

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2 **NOTICE OF REMOVAL** to the honorable judges of the United States District Court for
3 the Southern District of California:

4 Removing party, the California Department of Justice (Defendant), by the undersigned
5 attorney, respectfully shows this Court:

6 1. Removing party is a defendant in the above-entitled consolidated action.

7 2. On July 17, 2009, *Stockton Enterprises, LLC and Stockton Déjà Vu Boutique, LLC v.*
8 *California Department of Justice* was commenced against Defendant in the Superior Court of the
9 State of California for the County of San Joaquin. (Case No. 39-2009-00221372-CU-MC-STK.)

10 3. On July 20, 2009, *Lucky Bobs Internet Café, LLC v. California Department of Justice*
11 was commenced against Defendant in the Superior Court of the State of California for the County
12 of San Diego. (Case No. 37-2009-0057438-CU-MC-NC.)

13 4. On September 25, 2009, the Superior Court for the County of San Diego ordered the
14 transfer and consolidation of *Stockton Enterprises, LLC and Stockton Déjà Vu Boutique, LLC v.*
15 *California Department of Justice* with *Lucky Bobs Internet Café, LLC v. California Department*
16 *of Justice* in the Superior Court for the County of San Diego, pursuant to California Rules of
17 Court, Rule 3.500, subdivision (d), as non-complex actions containing common questions of fact
18 and law.

19 5. The above-referenced consolidated cases are pending in the Superior Court for the
20 County of San Diego.

21 6. On December 11, 2009, the Superior Court for the County of San Diego overruled
22 Defendant's demurrer to the verified Complaint filed by consolidated plaintiffs.

23 7. On April 30, 2010, consolidated plaintiffs were granted leave to file, and filed, a First
24 Amended Complaint.

25 8. On July 2, 2010, the Superior Court for the County of San Diego overruled
26 defendant's demurrer to the third, fourth and fifth causes of action in the First Amended
27 Complaint filed by consolidated plaintiffs.

1 9. On December 2, 2010, consolidated plaintiffs were granted leave to file, and filed, a
2 Second Amended Complaint. On December 24, 2010, the Second Amended Complaint was
3 personally served on defendant at the office of its counsel of record, the Office of the Attorney
4 General, 110 West "A" Street, Suite 1100, San Diego, California 92101. This notice is filed
5 within thirty days after such service.

6 10. The amount in controversy in the consolidated action exceeds \$750,000.00
7 (\$250,000.00 alleged per plaintiff).

8 11. Defendant is entitled to removal of the above-entitled consolidated action because
9 this Court has original jurisdiction of the subject matter of the suit. The consolidated plaintiffs'
10 Second Amended Complaint sets forth for the first time two causes of action against Defendant
11 arising under the Constitution and laws of the United States, to wit, alleged violations of
12 consolidated plaintiffs' Constitutional rights to free speech and expression under the First
13 Amendment to the United States Constitution pursuant to 42 U.S.C. Section 1983.

14 12. Copies of all process, pleadings, and orders served on defendant in the consolidated
15 action are attached hereto as Exhibits A through M, inclusive.

16 WHEREFORE, defendant respectfully requests that the above-entitled consolidated action
17 be removed from the Superior Court of the State of California for the County of San Diego to this
18 Court.

19 | Dated: January 24, 2011

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
SARA J. DRAKE
Senior Assistant Attorney General
WILLIAM L. WILLIAMS, JR.
Deputy Attorney General

/s/ T. Michelle Laird
T. MICHELLE LAIRD
Deputy Attorney General
*Attorneys for Defendant California
Department of Justice*

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DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **Lucky Bobs Internet Cafe v. Department of Justice**
No.:

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On January 24, 2011, I served the attached:

NOTICE OF REMOVAL OF CIVIL ACTION

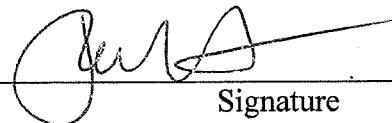
by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 110 West A Street, Suite 1100, P.O. Box 85266, San Diego, CA 92186-5266, addressed as follows:

David B. Norris
Law Offices of David Baxter Norris
402 W. Broadway, Suite 1140
San Diego, CA 92101
Attorney for Plaintiffs

Clerk of Superior Court
Superior Court of California
County of San Diego
North County Division
325 S. Melrose Drive
Vista, CA 92081

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on January 24, 2011, at San Diego, California.

Roberta L. Matson
Declarant



Signature

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

LUCKY BOBS INTERNET CAFE, LLC, STOCKTON ENT., LLC,
and STOCKTON DEJA VU BOUTIQUE, LLC

(b) County of Residence of First Listed Plaintiff San Diego
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

David B. Norris, Attorney at Law (619) 232-2690
402 W. Broadway, Suite 1140

DEFENDANTS

CALIFORNIA DEPARTMENT OF JUSTICE

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known) **'11CV0148 BEN JMA**

Kamala D. Harris, California Attorney General
T. Michelle Laird, Deputy Attorney General

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

<input type="checkbox"/> 1 U.S. Government Plaintiff	<input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF	PTF	DEF	
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	PROPERTY RIGHTS	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 450 Commerce	
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<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 390 Other	<input type="checkbox"/> 810 Selective Service	
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	LABOR	<input type="checkbox"/> 850 Securities/Commodities/ Exchange	
<input type="checkbox"/> 195 Contract Product Liability		<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410	
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<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General	<input type="checkbox"/> 894 Energy Allocation Act	
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 895 Freedom of Information Act	
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice	
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 950 Constitutionality of State Statutes	
		<input type="checkbox"/> 555 Prison Condition		
			SOCIAL SECURITY	
			<input type="checkbox"/> 861 HIA (1395ff)	
			<input type="checkbox"/> 862 Black Lung (923)	
			<input type="checkbox"/> 863 DIWC/DIWW (405(g))	
			<input type="checkbox"/> 864 SSID Title XVI	
			<input type="checkbox"/> 865 RSI (405(g))	
			FEDERAL TAX SUITS	
			<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	
			<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

V. ORIGIN

(Place an "X" in One Box Only)

<input type="checkbox"/> 1 Original Proceeding	<input checked="" type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify) _____	<input type="checkbox"/> 6 Multidistrict Litigation	<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment
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Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. Section 1446(a)

VI. CAUSE OF ACTION

Brief description of cause:
Action to recover items seized by DOJ pursuant to Cal. Pen. Code & for civil rights violations.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION
UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

01/24/2011

/s/T. Michelle Laird

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFFP

JUDGE

MAG. JUDGE